

**UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF GUAM**

UNITED STATES OF AMERICA,)	CRIMINAL CASE NO. 07-00095-001
)	
Plaintiff,)	
)	
vs.)	DECLARATION IN SUPPORT
)	OF PETITION
)	
KELLY FRANCISCO,)	
)	
Defendant.)	
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Re: Violation of Pretrial Release Conditions; Request for Summons.

I, Grace D. Flores, am the U.S. Probation Officer assigned to supervise Kelly Francisco, and in that capacity declare as follows:

On October 19, 2007, Kelly Francisco made an initial appearance before Magistrate Judge Joaquin V.E. Manibusan Jr. on an Indictment charging him with Counts I and II: Conspiracy To Manufacture Methamphetamine and Attempted Manufacture of Methamphetamine, both in violation of 21 U.S.C. §§841(a)(1) & 846. Mr. Francisco was granted pretrial release with conditions. On April 28, 2008, conditions were modified to remove participation in the home confinement program and a status hearing was scheduled for August 14, 2008. Mr. Francisco is alleged to have violated the following conditions of release:

Mandatory Condition: *The defendant shall not commit any offense in violation of federal, state or local law while on release in this case. (18 U.S.C. § 3142(c)(A)).*

On May 23, 2008, Kelly Francisco was arrested for the offenses of Driving Under the Influence. Guam Police Department (GPD), Arrest Report case number 2008-00013220, outlined the case as follows:

On May 23, 2008, GPD Officer Glenn Ogo while on patrol in the Barrigada area noticed the vehicle directly in front of him, a maroon Ford Explorer with Guam License Plate A 2045, weave in and out of the inner and outer lanes. He observed the vehicle straddle the lanes. A traffic stop was conducted and the sole occupant of the vehicle was identified as Kelly N. Francisco. When Mr. Francisco was informed of the nature of the pull over, he replied with slurred speech " I know sir I am sorry I am just trying to get home but you caught me." Officer Ogo requested Mr. Francisco's drivers license and although he already had it in his hand, he began to look through his wallet. Officer Ogo noted Mr. Francisco's eyes were

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bloodshot and watery and he had a strong odor of intoxicating beverage emitting from his person. When asked if he would submit to a Standardized Field Sobriety Test, Mr. Francisco stated “ No sir I know I am drunk and you got me.”

After waiting 20 minutes, Mr. Francisco administered the breath test utilizing the Intoximeter EC/IR-II breath test instrument. Mr. Francisco’s results were .203% BAC. Mr. Francisco was escorted to the Hagatna Detention Facility for processing where he was booked and released.

Special Condition: *Submit to any method of testing required by the pretrial services officer for determining whether the defendant is using a prohibited substance (18 U.S.C. § 3142(c)(B)(xiv)).*

Mr. Francisco failed to appear for his scheduled drug test on May 27, 2008. He reported to the U.S. Probation Office for a compliance meeting on May 28, 2008 and indicated that after work he fell asleep and did not awake in time for his scheduled test. He submitted to urinalysis which tested negative for the use of controlled substances.

Recommendation: It is requested that a summons be issued, and that this matter be set for a hearing, and at that hearing, the defendant be held to answer or show cause why bail should not be revoked or why conditions of release should not be modified, or for any other matter for which the Court may deem just and proper.

I declare, under penalty of perjury, that the foregoing is true and correct, except those matters stated upon information and belief, and as to those matters, I believe them to be true.

Executed this 4th day of June 2008, at Hagatna, Guam, in conformance with the provisions of 28 U.S.C. § 1746.

Respectfully submitted,

ROSSANNA VILLAGOMEZ-AGUON
Chief U.S. Probation Officer

By:



/s/ GRACE D. FLORES
U.S. Probation Officer

Reviewed by:



/s/ CARMEN D. O'MALLAN
U.S. Probation Officer Specialist
Supervision Unit Leader

cc: Rosetta L. San Nicolas, AUSA
Peter C. Perez, Defense Counsel
File